being the penalty for murder as now defined by the law, many criminals escape altogether, because the juries will not inflict death for certain offences: *exempli gratiâ*, infanticide. The case of infanticide is a peculiar one. It is perhaps scarcely desirable to make any distinction which would amount to enacting that the life of a child is not as valuable as that of an adult. At the same time infanticide proper, that is, the murder of a child at the birth, is certainly considered not so heinous an offence as the murder of an older person, as is shewn by the readiness of juries to acquit in such cases. The rule of law that murder can only be committed of a child completely born and severed from his mother has prevented vast numbers of convictions which otherwise must have taken place, but where mortal injury is inflicted on a child in this position the guilt is really quite as great as if the child had been completely born and the violence inflicted immediately afterwards. It would in our opinion be a great improvement of the law to enact that upon any charge of infanticide—that is, of murder by a mother of her child at the time of its birth—it should not be necessary to prove that the child was completely born at the time of the infliction of the injury, but that in all such cases the offence should not be capital, but punishable only with penal servitude. If that change were made, convictions would take place of the serious charge in cases where at present their is only a conviction for concealing the birth, an offence of a totally different character.

It is also said that there is much uncertainty in the infliction, in consequence of the Home Secretary's intervention. The jurisdiction of the Home Secretary as to remitting sentences is of course, unsatisfactory, but it is difficult to see how it can be done away with altogether. There must always be in some quarter a discretion as to the exercise of the prerogative of mercy. But the cases in which the Home Secretary is appealed to may be divided into two classes, those in which he is called upon to pass judgment upon the facts proved at the trial, and those where new facts are brought forward. As to the latter there clearly ought to be a means of ordering a new trial. We have protested several times against allowing a universal right of appeal in criminal cases, but it would be much more desirable that the subsequent investigation, which must take place in certain cases, should be a judicial rather than a private one. The former class of cases are more difficult to deal with. We are inclined to think it would be an improvement to refer the question of the remission to a certain number of the judges, say five or six, of whom the judge who tried the case should be one. By this plan there would be more uniformity than at present.

The present defects in the system of capital punishment call for amendment, but are not an argument for abolition.

It is also said, and with apparent seriousness, "But capital punishment cannot operate as a deterrent, for see how many murders are committed." This argument might be advanced against the infliction of any punishment whatever. But another question occurs at once: Is there any likelihood that if we abolished hanging there would be fewer murders? It was stated in last year's debate that in the experience of Tuscany and Switzerland the abolition was followed by a marked increase of crime. It requires no unusual penetration to see that, if hanging for murder were abolished, lesser crimes would be consummated by murder far oftener than at present. Where a ruffian has committed a brutal rape or robbery, which, on conviction, will entail on him penal servitude for life or some long term nearly equivalent,—abolish capital punishment for murder, and how often is it likely that the criminal will shrink, if his escape may be thereby facilitated, from adding murder to the first crime? Nay, in many cases it will be his direct interest to do so, simply by way of destroying the evidence of the victim of his previous atrocity. If he silences that evidence he may evade justice altogether, but even if, after adding that second crime to the first deed, he still falls into the hands of justice, he is no worse off than before, because justice has no further penalty to inflict. His back is against the wall; he has all to gain and nothing to lose. We repeat that this consideration alone imperatively requires that death should be inflicted as the penalty for murder. Further than this, we believe that the fear of the capital infliction does operate with very deterrent effect, and especially so upon the "habitual criminal" class. As we have before observed, the saying "while there is life there is hope," applies to criminals, as well as to other people. Appropriating Mr. Scourfield's quotation of last Wednesday—"By all means let reverence for human life be observed,' '*que messieurs les assassins commencent.*'"—*Solicitors' Journal.*

The Irish case of Keays against Lane was a cause on petition against trustees for a breach of trust. The trustees of a fund settled on a husband for life or until insolvency, and then to his wife for life for her separate use, at the solicitation of her husband, and with the concurrence of the wife, committed a breach of trust by lending part of the trust funds to the husband, who afterwards became an insolvent. In a suit against the trustees, charging them with a breach of trust, the husband and wife being parties to the suit, the Lord Chancellor holds, that the Court could make a declaration that the husband should recoup the trustees the amount which they were liable to make good to the trust funds, and that a cross bill by the trustees was not necessary. That the husband not being in insolvent circumstances at the time of the loan, his wife's separate estate in the trust fund was then reversionary, and, therefore, as it could not then be bound by her, it was not available to recoup the trustees.